



Jun-2000

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Recommended Citation

Kirkey, Christopher (2000). The Global Elimination of Landmines: Where Is Washington?. *Bridgewater Review*, 19(1), 3-7.
Available at: http://vc.bridgew.edu/br_rev/vol19/iss1/5

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THE GLOBAL ELIMINATION OF LANDMINES: WHERE IS WASHINGTON?

BY CHRISTOPHER KIRKEY

U.S. AP MINE POLICY: PRELUDE TO OTTAWA

Much effort to restrict AP mines, albeit sporadic and less than fully successful, had been spent by the international community – including the United States – prior to the onset of the Ottawa Process. The 10 October 1980 Convention on Conventional Weapons (CCW) represented the first major breakthrough in an attempt to address the humanitarian horrors inflicted by AP mines. Protocol II of the CCW – Prohibitions or Restrictions on the Use of Mines, Booby-traps and Other Devices – was by no means, however, a definitive solution. Public and private observers throughout the 1980s and early 1990s – in the face of ongoing and increased use of AP mines and AP mine accidents/deaths – found the 1980 Protocol to be increasingly ineffective. The CCW, it was recognized, failed on several counts including: the absence of adequate verification methods to ensure state compliance and enforce implementation; the absence of any meaningful political, economic, or military penalties to punish violators; the inapplicability toward domestic or intrastate conflict; the restrictive focus on land mine use (as opposed to production, stockpiling, transfer, etc.); and the lack of an effective mechanism to guarantee ratification and implementation.

Convinced that tougher measures were required to combat the myriad of problems stemming from AP mine use, the international community reconvened in 1995 at the Review Conference of the CCW. These meetings, held in Vienna and Geneva from 25 September-13 October and also in January 1996 and 22 April-3 May 1996, culminated in a revamped Protocol II – yet one that still failed to fully satisfy many states, international organizations, and non-governmental organizations alike. This sense of frustration led eight like-minded states (Austria, Belgium, Canada, Denmark, Ireland, Mexico, Norway and Switzerland), the

In a much celebrated September 1994 address to the United Nations General Assembly, American President Bill Clinton challenged the international community to concentrate its efforts and move towards securing the global elimination of anti-personnel (AP) mines. Just over three years later, in December 1997, 122 countries gathered in Canada to sign the Ottawa Convention – formally titled the *Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction*. Despite widespread international support from a variety of states, international organizations and nongovernmental organizations, the United States opted not to sign the most significant agreement negotiated to date to eliminate AP mines. Why?

This essay will chronicle the evolving AP mine position of the United States – prior to, and particularly *during* the Ottawa Process of October 1996 to December 1997. The essay will review the reluctance of Washington to fully participate in the Ottawa Process, the decision to utilize the Conference on Disarmament (CD) as the most appropriate forum for AP mine elimination negotiations, and the announcement that America would commit to Convention negotiations in September 1997. Scrutiny will be paid to examining why the U.S. could not endorse the final text of the negotiated Convention.



Shown above: PMA-2 Soviet-designed anti-personnel blast landmine. Photograph by John Rodsted.

International Committee of the Red Cross (ICRC) and the International Campaign to Ban Landmines (ICBL) to examine and develop a new diplomatic path for the elimination of AP mines. These discussions, which began on 19 January 1996, were ironically attempting to identify an alternative AP mine ban course of action, even as the CCW Review Conference continued. By the conclusion of the CCW Conference on 3 May 1996, Canada – arguably the most determined state leading the initiative for a more meaningful AP mine ban agreement – declared its intention to convene a multilateral forum in the latter part of 1996. The meeting would be designed to identify and implement a plan of action to meet this desired end.

For its part, the United States – which had played an active role in crafting the CCW Protocol revisions – was not yet prepared to participate in, let alone endorse, what would soon come to be known as the Ottawa Process. In the Spring of 1996, Washington was

instead engaged in an internal policy review to determine the military use of, and need for, AP mines. This review, announced on 16 March 1996 and ordered by the Chairman of the Joint Chiefs of Staff, General John Shalikashvili, culminated two months later. The AP mine position of the United States, as outlined by the President, would include the following components:

- 1) a renewed commitment to seeking an international agreement to eventually eliminate all AP mines;
- 2) a commitment to eliminate all non self-detonating/self-deactivating (i.e., “dumb”) AP mines from the U.S. arsenal by 1999 – with the exception of more than one million AP mines used to protect American and South Korean defense forces against a potential military attack from North Korea;
- 3) a decision to continue the use of self-detonating/self-deactivating (i.e., “smart”) AP mines until such time as effective alternatives were designed to replace them or an international AP mine elimination accord was reached.

The summer of 1996 witnessed no substantive changes to the newly enunciated U.S. AP mine policy. Washington’s focus shifted to the question of whether or not to participate at the upcoming Canadian sponsored international forum on eliminating AP mines, scheduled to be convened in Ottawa. U.S. government officials met with Canadian representatives on several occasions to discuss the format, scope, purpose and intended outcomes of the Ottawa Conference. As one Department of State participant involved in the talks put it:

We were well aware that a number of states – Canada, Austria, Norway and the like – were dissatisfied with the CCW Review outcome. The NGO community was even more frustrated by the May result. They viewed the upcoming Ottawa meetings in a redemptive light... as an opportunity to create a fresh start to rid mines from the world. Our concern at this time was ensuring that any declaration to emerge from Ottawa be non-binding on parties... A deadline to eliminate mines by say 2000 was from our perspective wholly artificial and inconsistent with past international negotiations and with our security commitments.

The U.S. ultimately agreed to attend the 3-5 October Ottawa Conference, titled “Towards a Global Ban on Anti-Personnel Mines,” as a full participant.

THE OTTAWA PROCESS & THE POSITION OF THE UNITED STATES

A. October 1996-August 1997: A Different Road Taken

The position taken by the U.S. at the Ottawa Conference was to underscore the central features of its May 1996 AP mine policy, while simultaneously insisting that despite an ongoing commitment to international negotiations to eliminate AP mines, it was unwilling to agree to any formal deadline. At the

conclusion of the conference, some fifty states, including the U.S., agreed to support the Ottawa Declaration. The declaration, essentially a statement pledging political cooperation, notably underscored the pressing need to undertake "urgent action on the part of the international community to ban and eliminate [AP mines]," by committing states "to ensure the *earliest possible conclusion* of a legally-binding international agreement to ban anti-personnel mines." The terms and conditions outlined in the Ottawa Declaration were, for all intents and purposes, consistent with U.S. AP mine policy.

Canada's Minister of Foreign Affairs, Lloyd Axworthy, surprised the world, however, when he announced on 5 October that it was Canada's intention to convene an international AP mine elimination *treaty signing* conference in December 1997. This unilateral decision was not greeted with raw enthusiasm by the U.S. Karl Inderfurth, Deputy U.S. ambassador to the U.N. and a member of the American delegation offered the U.S. official response:

Clearly all of us attending this conference feel strongly about the subject, and this initiative put on the table by the Canadian Foreign Minister is one that we will look at... We're not prepared to set a date, but we are prepared to start work immediately on an international agreement to ban land mines. If this can take place within that time frame and if our concerns can be met, we'll be very supportive.

Clearly disappointed and somewhat frustrated by Canada's actions, Washington reviewed its options in the Fall of 1996 for pursuing an international AP mine ban. A commitment to full participation in the newly launched Ottawa Process option was dominated by one overwhelming consideration: could an international agreement be negotiated that would effectively recognize, incorporate, and reconcile itself to America's existing AP mine platform? Most observers in Washington believed this unlikely, particularly given the December 1997 deadline, but were not yet prepared to completely abandon the politically attractive Ottawa Process. An alternate possibility available to the U.S. was to seek international agreement through the U.N. sponsored Conference on Disarmament. The immediate drawback to the CD process was obvious to all concerned – as an international forum designed to address arms control, disarmament, and elimination issues, the CD utilized a consensual (as opposed to a majority type) decision making model. The probable net effect of this institutional mechanism would be to prolong the possibility of achieving an AP mine ban international agreement. On the other hand, the CD venue offered two attractive features not contained in the Ottawa Process. First, the Geneva-based Conference on Disarmament included several states whose signature and subsequent participation would be required if an AP mine ban were, from Washington's perspective, to be truly effective. Several of these actors, including Russia, China, Iraq, North Korea, Syria and Israel were not participants in, and indeed publicly and privately dismissive of, the Ottawa

Process. The second and arguably more compelling lure of the CD for the United States was the belief that no matter the time required, a final accord would capture the political realities and military necessities of America's AP mine policy set forth in May 1996.

Washington's preferred option for negotiating an international AP mine ban was announced on 17 January 1997. Much to the consternation of pro-Ottawa Process forces – which included various states, international organizations, nongovernmental organizations, and Congressional supporters, most notably Senator Patrick Leahy of Vermont – President Clinton stated that the U.S. would commit its focus and energies to the U.N. Conference on Disarmament.

The Conference on Disarmament, however, proved to be an exercise in futility for the U.S. Despite repeated attempts by American officials from January-June 1997 to include the AP mine elimination issue on the official agenda proceedings at the CD, success remained unattainable. Several contributing factors effectively created procedural roadblocks for the U.S., including continued support for the use of AP mines by some states, a distinct preference, by certain states, to address the AP mine issue through the Ottawa Process, and an insistence by other members that the CD needed to first and foremost address the need for international nuclear disarmament.

By June 1997 it was clear to Washington that the CD process would not bear fruit. From early July to mid-August, and in accordance with American AP mine negotiation policy guidelines established the previous January, the U.S. policy community engaged in an interagency review. The review was structured to address two issues: the lack of immediate progress and concomitant prospects for future success at the CD; and, the status of the Ottawa Process and whether, most importantly, to commit to join negotiations in the



Shown above: POMZ Soviet-designed fragmentation anti-personnel landmine. Photograph by John Rodsted.

Ottawa Process forum. The lack of results at the CD, interagency review officials noted, stood in sharp contrast to the positive momentum of the Ottawa Process. States, international organizations, and nongovernmental organizations were increasingly supportive of this effort, and had successfully engaged in a series of constructive AP mine elimination treaty-building conferences throughout 1997. With the completion of an initial draft treaty by Austria, actors involved in the Ottawa process met in Vienna (the 12-14 February Expert Meeting on the Text of a Total Ban Convention), Bonn (the 24-25 April Expert Meeting on Compliance) and Brussels (the 24-27 June International Conference for a Global Ban on Anti-Personnel Mines), to examine the necessary conditions and provisions to be contained in a final treaty. The Brussels Conference, ironically coinciding with the conclusion of the CD, produced a political declaration committing states – 97, not including the U.S., signed the declaration – to final negotiations in Oslo in September and a subsequent treaty signing conference scheduled for December in Ottawa.

The key decision of the interagency process – i.e., whether to participate in the September negotiations – was announced by President Clinton on August 18. While still committed to the CD as the forum of choice for seeking a comprehensive international AP mine ban treaty, the President acknowledged that the U.S. would participate in the Oslo negotiations. “The United States,” Mr. Clinton observed, “will work with the other participating nations to secure an agreement that achieves our humanitarian goals while protecting our national security interests.” Despite committing to Oslo, the position of the United States entering negotiations was clear: the U.S. would not be prepared to sign the Ottawa Process treaty unless significant modifications were made to the existing text to accommodate its AP mine national interests.

B. September 1997:

The Oslo Negotiations

Immediately prior to the commencement of negotiations on 1 September at the Oslo Diplomatic Conference on an International Total Ban on Anti-Personnel Mines, the United States dispatched a delegation to Geneva to meet with the Ottawa Process core group of states. The purpose of the meeting, requested by Washington, was to allow U.S. officials the opportunity to outline the negotiation positions that would be pursued by the U.S. at Oslo, as well as to express reservations about existing draft treaty conditions and language. Five issues were of central concern to Washington:

- 1) the need for stronger verification procedures;
- 2) an exemption for continued AP mine use in Korea;
- 3) the right to continue to use anti-tank mines;
- 4) a suitable transition period for treaty compliance;
- 5) conditions governing the rights of states to withdraw from the treaty.

The first two weeks of the Oslo Conference witnessed repeated efforts by the U.S., in plenary sessions and smaller working group venues, to enlist support for its negotiation platform. Apart from the limited support offered by the United Kingdom, Australia, Japan, Poland, Spain and Ecuador for specific U.S. proposals, no progress was immediately discernible – except on the issue of verification. On this latter issue, the United States was able to generate broad-based support for a revised verification and compliance measure regime. Concerns abounded, however, on the American request for a Korean exemption. Most states, international organizations and non-governmental organizations rejected this demand outright, convinced that the granting of an exemption would lead other states to possibly demand similar

considerations, thereby weakening the overall impact of the treaty. Many also believed that there was little to no military utility for AP mines in the case of Korea, and that suitable technological and strategic alternatives were available to the U.S.. Attempts to classify smart mines and anti-handling devices attached to anti-tank and anti-vehicle mines as submunitions and not as AP mines were equally fruitless. A subsequent decision by U.S. negotiators to re-categorize these forces as anti-handling devices as opposed to submunitions met with the same negative result. A nine year transitional delay of entry-into-force for the treaty was likewise rejected by the overwhelming majority of states. American claims that an adequate transition period was necessary to develop, test, and integrate new military instruments to replace AP mines fell on deaf ears. Finally, the U.S. position on treaty withdrawal – a 90 day notification period and the right of withdrawal if a state should be engaged in war – was not widely supported.

Confronted with the uncomfortable realities of Oslo, the United States next opted to pursue two related avenues: it decided to reformulate its negotiation platform; and, to seek international support – spearheaded through the direct diplomatic intervention and efforts of President Clinton – for the new U.S. position. The re-configured American platform, which would be presented on 16 September at the Oslo Conference, no longer contained an exemption for Korea and instead focused on three issues:

- 1) a redefinition of anti-handling devices so as to permit the use of such weapons not physically attached but near anti-tank mines;
- 2) the right, for nine years, to defer compliance with specific treaty conditions; and,
- 3) the right to withdraw from the treaty if a state determined that it was, in keeping with the standards set forth in the United Nations Charter, a victim of armed aggression.

To win support for this package of proposals, President Clinton personally spoke with several political leaders, including Canadian Prime Minister Jean Chretien, South African President Nelson Mandela and British Prime Minister Tony Blair.

In an attempt to gain converts for the revised U.S. platform, the American delegation at Oslo – upon presenting its new negotiation positions on 16 September – requested, and was given, a twenty-four hour extension. The reconsideration – i.e., international accommodation of American AP mine interests – that Washington sought never materialized, and on 17 September the United States officially withdrew from the negotiations. The following day, the plenary session of the Oslo Conference formally voted to adopt the treaty.

In disclosing that the U.S. would not sign the Ottawa Treaty, President Clinton announced a series of accelerated national AP mine elimination and global demining initiatives. First, the President established a target date for eliminating the use of AP mines by the United States. The Department of Defense was instructed to “develop alternatives to antipersonnel mines” by 2003, and in the case of Korea, by the year 2006. Additional research funding would be made available to accomplish this objective. Second, David Jones, former Chairman of the Joint Chiefs of Staff, was appointed as special advisor on AP mine issues to the President and Secretary of Defense William Cohen. Third, a significant increase in U.S. funded and operated demining programs was set into motion.



Angolan women maimed by landmines.

United Nations Photo

C: September 1997 and Beyond

The final months of 1997 witnessed no fundamental shift in U.S. AP mine policy. Determined to once again proceed with AP mine elimination efforts at the Conference on Disarmament, the United States did not move – as some observers wishfully anticipated – to endorse the Ottawa Convention. The most notable development in U.S. policy during this period was in the area of demining. On 31 October, Secretary of State Albright announced the “Demining 2010” proposal, billed as “a major new United States initiative on a subject of widespread concern.” Highlighted by the appointment of Karl Inderfurth to the new positions of Special Representative of the President and Secretary of State for Global Humanitarian Demining, this program was established to rapidly facilitate global demining efforts, with an aim of achieving complete AP deployed mine elimination by 2010.

The Ottawa Convention signatory conference of 2-4 December 1997 – formally titled “A Global Ban on Landmines: Treaty Signing Conference and Mine Action Forum” – was attended by an American observer delegation headed by Secretary Inderfurth. Amid the effusively celebratory atmosphere, Inderfurth noted that “Canada had done a remarkable and important

thing in trying to get the countries of the world to agree not to produce, deploy or sell landmines,” but nonetheless reminded conference attendees that, *the United States did not sign this treaty. This is because of President Clinton’s concern for the safety and security of our men and women in uniform and the unique responsibilities the United States has around the world for the security of friends and allies, not for lack of dedication to our common goal of eliminating anti-personnel mines from the face of the earth.*

As we approach July 2000, some 137 nations have signed the Convention, with 94 signatories also having ratified the text. Official American policy is to be AP mine free by the year 2006, thereby allowing the U.S. to sign the Convention. Much work remains, however, if this target date is to be met.

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